

ESTTA Tracking number: **ESTTA326042**

Filing date: **01/10/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	American Seating Company
Granted to Date of previous extension	01/10/2010
Address	401 American Seating Center Grand Rapids, MI 49504 UNITED STATES
Attorney information	Timothy E. Eagle Varnum LLP 333 Bridge St. NW Grand Rapids, MI 49501 UNITED STATES teeagle@varnumlaw.com,trademarks@varnumlaw.com

Applicant Information

Application No	77687426	Publication date	07/14/2009
Opposition Filing Date	01/10/2010	Opposition Period Ends	01/10/2010
Applicant	Exemplis Corp. 6415 Katella Avenue Cypress, CA 90650 UNITED STATES		

Goods/Services Affected by Opposition


Class 020. All goods and services in the class are opposed, namely: furniture, namely, chairs
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77682556	Application Date	03/03/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FOCUS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 020. First use: LECTURE ROOM SEATING FURNITURE

Attachments	77682556#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (3 pages)(98380 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Timothy E. Eagle/
Name	Timothy E. Eagle
Date	01/10/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN SEATING COMPANY

Opposer,

v.

Exemplis Corp.

Applicant.

Mark: FOCUS
Serial No. 77687426
Application Filing Date: 3/10/2009
Published: 7/14/2009

BOX TTAB FEE
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1415

NOTICE OF OPPOSITION

Opposer American Seating Company, states as its Notice of Opposition as follows:

1. American Seating Company ("Opposer") is a company organized under the laws of Delaware and having a business address at 401 American Seating Center Grand Rapids, Michigan 49504. Opposer believes it will be damaged by the registration of the trademark of U.S. Application Serial No. 77687426 and hereby opposes the same in this Notice of Opposition pursuant to TBMP § 303.05(a) and 37 CFR § 2.101(a).
2. According to the records of the United States Patent and Trademark Office, U.S. Application Serial No. 77687426 for the mark FOCUS, was applied for based on a *bona fide* intent to use the mark in commerce on March 10, 2009 by Exemplis Corp, ("Applicant"), a California corporation with a business address of 6415 Katella Avenue, Cypress, California 90650.
3. The mark FOCUS was published for opposition on July 14, 2009 in International Class 20 for furniture, namely chairs.
4. On August 13, 2009 the named Opposer sought a thirty (30) day extension of time in which to oppose U.S. Application Serial No. 77687426. This request was duly granted.

5. On September 11, 2009 the named Opposer sought a sixty (60) day extension of time in which to oppose U.S. Application Serial No. 77687426. This request was duly granted.

6. On November 11, 2009 the named Opposer sought a sixty (60) day extension of time in which to oppose U.S. Application Serial No. 77687426. This request was duly granted.

7. The grounds for the opposition are as follows:

(a) Opposer applied for a federal registration (U.S. Application Serial No. 77682556) of the mark FOCUS in the United States Patent and Trademark Office on March 3, 2009 as applied to lecture room seating in International Class 20. The recitation of goods was subsequently amended to lecture room seating furniture. Opposer's application was published for opposition on September 29, 2009.


(b) Applicant's mark which is the subject of the pending application 77687426 described in this Notice of Opposition, and the goods described thereunder, would create a likelihood of confusion of consumers with respect to Opposer's mark because Applicant's mark so resembles the mark that is the subject of the application which Opposer has previously filed in the Office, as to be likely when used on or connection with the goods of the Applicant to cause confusion, to cause mistake, or to deceive consumers.

WHEREFORE, Opposer American Seating requests that Application No. 77687426 be refused registration in International Class 20 and that no registration be issued thereon to Applicant and that this opposition be sustained in favor of Opposer.

The filing fee for this Notice of Opposition may be charged to Deposit Account No. 22-0257.

Respectfully submitted,
AMERICAN SEATING COMPANY

Dated: January 10, 2010

By: /s/Timothy E. Eagle 


Timothy E. Eagle (Reg. No. 31,755)
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CERTIFICATE OF SERVICE

The undersigned certifies that he is one of the attorneys for Opposer American Seating Company in the above-captioned Opposition proceeding, and that on the date which appears below caused a copy of the foregoing Notice of Opposition to be served on counsel for Applicant Susan Meyer, Esq. via e-mail and via U.S. Mail first class pre-paid to Addressee, by placement in a U.S. Mail receptacle.

Gordon & Rees, LLP
101 W Broadway Ste 1600
San Diego, Ca 92101-8217

Date: January 10, 2010

By: /s/Timothy E. Eagle 
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